

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Norfolk Division

UNITED STATES OF AMERICA

Criminal No. 2:22-cr-00047

v.

PATRICK TATE ADAMIAK,

NOTICE OF EXPERT WITNESS

Defendant.

Notice is hereby given that the defendant, Patrick Tate Adamiak, will call one expert witness during the trial in this case, offered in response to the previously noticed government experts, to-wit: Daniel G. O’Kelly.

Mr. O’Kelly is a firearms expert and consultant, and he is a former ATF senior special agent, ATF firearm instructor coordinator, and former chief firearm technology instructor at the ATF National Academy. He is an expert in the identification, operation, and design of firearms, including machineguns and destructive devices. His expertise is based on his education, training, and his previous employment with the ATF, as outlined in his curriculum vitae (attached).

Mr. O’Kelly will testify to the history of the model PPSH41. It is Mr. O’Kelly’s opinion that the PPSH41 in this case cannot be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of a trigger. Additionally, Mr. Adamiak has never owned a complete, fully working automatic PPSH41, and he has never handled or fired one.

Concerning the M79 and M203 charged in the superseding indictment, neither receiver had a barrel attached. The receivers (both M79 and 203) were sold as simple “firearms” not subject to the NFA. Mr. O’Kelly further opines that to functionally destroy an M79 and M203 so

that they could be used as non-firearm display pieces, this requires a person to obtain both the barrel and the receiver in order to perform the steps required to do this.

Mr. O’Kelly further opines that the M203 and M79 in this case were removed from the purview of the NFA by virtue of the barrels being removed prior to Mr. Adamiak taking possession. The receivers and barrels were stored separately, locked in Mr. Adamiak’s safe, from the barrels, and the receivers were purchased through an FFL. Additionally, Mr. Adamiak had never mounted the barrels to the receivers.

Mr. O’Kelly further opines that the RPG7s in this case were deactivated and inoperable, as they have a hole in the chamber/barrel, the grip housings contained no firing mechanism, and that they had been engraved with the word “INERT” and “TRAINING AID DUMMY.” With no fire controls and a hole in the barrel/chamber, the actual firing of a rocket would be ineffectual and injurious to the operator, and it would not constitute a weapon. He will further testify to the history and availability of RPG7s.

It is Mr. O’Kelly’s further opinion that the “RPG7s” in this case were neither fully functional nor able to be readily converted to expel a projectile by the action of an explosive or other propellant. Additionally, Mr. O’Kelly opines that the “RPG7s” in this case did not constitute a combination of parts either designed or intended for use in converting any device into a destructive device as defined in 26 U.S. Code § 5845(1) and (2) and from which a destructive device may be readily assembled.

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Mr. O’Kelly will further testify to current and prior ATF regulations and rulings, relevant to the evidence in this case, the various definitions of machinegun and destructive device, and the component parts of the items charged in the superseding indictment.

Respectfully submitted,

PATRICK TATE ADAMIAK

/s/

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